

**Town of Milton
Town Council Meeting
Milton Library, 121 Union Street
Monday, April 1, 2013
6:30 p.m.**

**Transcriptionist: Helene Rodgville
[Minutes are Not Verbatim]**

1. Swearing in of new Council Members

Mayor Jones: Alphabetically, I'm going to say it to Mr. Collier, first and his wife, Kathy. I, John Collier, do solemnly swear that I will support the Constitution of the United States of America, the laws of the State of Delaware, and the Charter of the Town of Milton. I will faithfully and impartially discharge the duties of my office of Council, in the Town of Milton, with fidelity. I will always take action for the best interests of the citizens of the Town of Milton. Guiding that decision, to the best of my ability, so help me God.

Councilman Collier: Repeated the oath.

Mayor Jones: This is Mike Cote's wife, Barbara. I, Michael Cote, do solemnly swear that I will support the Constitution of the United States of America, the laws of the State of Delaware, and the Charter of the Town of Milton. I will faithfully and impartially discharge the duties of my office of Council, in the Town of Milton, with fidelity. I will always take action for the best interests of the citizens of the Town of Milton. Guiding that decision, to the best of my ability, so help me God.

Councilman Cote: Repeated the oath.

Vice Mayor Betts: I would like to thank everyone for their participation and their help of me being elected for 25 years and I will be there if need be and I would like to thank our outgoing Mayor and the outgoing councilperson and the new ones, I welcome them and I hope they have good luck and best wishes to all of you. I do thank you all for coming and participating as like you have in the past. Thank you. Just one more thing, I didn't thank individual people like the police, the administrative office and the maintenance and the Town Manager, but they've all done a good job.

Mayor Newlands: I just want to wish the new Mayor and Council good luck.

Mayor Jones: I want to jump in here, because if I don't do this quickly they're going to go out the door. The best of my job tonight is I get to call recess and if I don't hear any objections from anyone in the Council or an audience, it's an opportunity for you to thank those people who have served as elected officials and are now outgoing and a chance for you to meet some of the new people that you may not have had a chance to meet yet. There's also some goodies and refreshments on the back tables, so if we watch the clock closely for about 20 minutes...

Councilman Booros: Before you recess, I would like to make a presentation to Ms. Betts for her 25 years of service. It's not a plaque, but it's from the citizen of Milton and it's a little something we thought you might enjoy.

Leah Betts: Thank you. I will miss you all, believe me.

Councilman Booros: I make a motion that we recess for a few minutes.

Councilman Cote: Second.

Mayor Jones: Any discussion? All in favor say aye. Let's do it.

2. Public Participation

Mayor Jones: I wish we could start every meeting like that.

- Georgia Dalzell, Chamber of Commerce: Good evening. I must be the only one going to speak, but I want to say that Leah Betts took the words right out of my mouth, because we were here to thank the three outgoing council people for their dedication and their hard work in their terms of office and Mrs. Betts has been in for quite a long time and she's been just a wonderful public servant to the Town of Milton and we just them to know how much we appreciated the work that they did. We also would like to welcome the new Council and let them know that we look forward to working with the new Mayor and the new council members and having an ongoing good relationship with the town and the Chamber of Commerce. We have a festival coming up in May, so we'll be asking for a lot of help and we look forward to working with them and welcome them. Thank you.
- Garry Merz, owner of Federal Street Gallery: I've been here ten 10 years. I would like to welcome our new Mayor and our new council people also. The reason why I'm here is that I'd like to address probably the most egregious act of irresponsibility I've ever witnessed, personally witnessed, by the police in my life. On Good Friday I was coming into town and I was actually driven off the road by two oncoming police cars that were going at an excessive rate of speed. I know this is not the place to determine whether I'm right or wrong, or whether the police were right or wrong, but I want the Mayor and Council to look into this. I have also turned this over to Beau Biden's office and I feel as though I'm very lucky to be here tonight to address this audience. Had it been my son, without his ability to drive the way I drive, he would have been dead. Thank you very much.

Mayor Jones: Thank you. We'll look into that for you.

- Brenda Burns, 127 Morris Avenue: I'm also here to speak about the incident on Good Friday. This was March 29th, last week and I wrote it so I can cover everything. As I was leaving town around 11:25 in the morning on Friday, I turned left onto _____ Street from Federal Street and as I approached a stop sign at the corner of Chestnut and Wharton, a white SUV came behind me with their flashers on. I pulled over to let the driver go around me and followed behind them. The white SUV proceeded down Atlantic Street with their flashers still on. At that point, a Milton police car pulled out of a vacant lot with his lights on and pulled the white SUV over. The driver of the SUV pulled over with the police car behind them, and they blocked the road so that I was required to sit there, to let approaching cars get through. As I was sitting there waiting to go around, I observed the officers speaking to the driver, who had rolled his window down. I proceeded on and when I could and as I was driving along, I went past Cave Colony. The white SUV came up behind me again, with his flashers still on and this time he was followed by a police car with flashing lights. I thought to myself, well good they're getting an escort to the hospital. I pulled over again to let them pass and as I drove further along on Route 88, I approached the white SUV and the police car again. The SUV pulled onto the shoulder of the road and the police car stopped in the street. There was traffic coming towards me, so I had to stop. I observed the Police Officer

jump out of his car, with his gun drawn and approached the driver's door screaming at the driver to get out of his vehicle. The driver got out with his hands up. I then pulled onto the shoulder as there were cars coming up behind me. From my rear view mirror, I could see another Milton police car approaching at a high rate of speed, lights flashing and driving on the shoulder of the road, where I was sitting. So I quickly pulled back into the street so that he could proceed through. As the second Police Officer stopped, he jumped out, pulled his weapon, all the while talking to the other officer who at that time, had the driver face down in the road, with his gun pointed at him. The second officer approached the back passenger door, opened the door and pointed his pistol inside. Two children were seated in the back seat. He then helped the other officer, as the driver was hand cuffed and the officer places his knee on the back of the driver's head pressing him into the gravel. During most of this spectacle John Bushey, a former Mayor of Milton and a Police Officer himself, was standing in the road, stopping traffic. Jack finally instructed traffic to go through and as I was driving past the stopped vehicles, I observed the officer helping the driver to his feet and saw that the driver's face was bleeding quite heavily. I also saw the mother in the passenger seat on her knees, bending into the back, trying to calm the children. I proceeded on my way. I found this incident quite disturbing and continue to think about it. When I came home, I called John Bushey and spoke to him. He told me that an ambulance had been dispatched. After further inquiries, I learned that an ambulance was dispatched to take, not only the driver's wife, but also the driver to the hospital. I don't know what happened to the children at that point. The driver was arrested and is now facing \$2,900 in fines, as well as criminal charges, along with a bill for the ambulance. Could this incident have been handled in a different manner? I would like to think so. I do not have all the facts and can only go by what I personally observed and it appears to me that there was a lack of common sense, as well as a lack of human dignity. My common sense tells me that as I watched these events unfold, that this man was trying to get his wife to the hospital because he believed that she was in imminent danger. Why didn't he call an ambulance? Because he couldn't afford one. Why didn't the Police Officer help this young family? What made this Police Officer react in a way that endangered so many citizens in our town? This car had already been pulled over and the officer knew that there were children in the back seat. The two officers were communicating with each other as I saw them talking into microphones that were attached to their shoulders. So why pull a gun on two children? Could there be a lack of respect for the citizens in our little town? Did the police forget that they are here to protect and serve? That the citizens pay their salaries with our taxes? Just think about how differently this could have been handled if the officer had offered to escort this family to the hospital, which is how John Bushey says it should have been handled; and if it turns out that there was not really an emergency, then arrest them, as well as issuing a speeding ticket at that time. Overzealous police practices should not be tolerated in this Town. We do not need additional bad publicity or another lawsuit that we taxpayer's must pay. I am requesting that the Mayor and Council conduct an internal investigation into the Police Department and the facts concerning this incident. Thank you.

Mayor Jones: Ms. Burns, I wonder if you would share your copy with me.

Barbara Burns: Well I have some spelling errors in here. I'll send it to you with the corrections.

Mayor Jones: Okay, thank you.

- Ed Kost, 230 Sundance Lane: Mayor Jones, council members. As you know, we've been having an ongoing discussion via the town's attorney with Chestnut Properties to post a performance bond. Chestnut Properties has been stonewalling. They've brought up many, many excuses not to post the performance bond. At this point, I would like to ask the Town Solicitor is he comfortable with the town's position with regards to the requirement that Chestnut Properties post a performance bond?

Seth Thompson: What I will have to do, I'll have to advise my client; I'll have to get the new council members up to speed and advise my client and then get their wishes. But I'm comfortable with our position.

Ed Kost: In which case, Mayor Jones, council members, I'm requesting that the Council authorize the Town Solicitor to bring suit against Chestnut Properties to have the Courts require Chestnut Properties to post the required performance bond. Let a Judge decide this issue. Thank you.

Mayor Jones: Thank you Mr. Kost.
- Gail Slaughter, 219 Summer Walk: I would like to speak this evening about the horrendous conditions, street conditions, currently in Cannery Village. Some of you on the Council may have received my email, attached with some 34 pictures of our streets and some of you have only received 12 because the file was too large to send, but irregardless, these are only a small sample of the conditions in Cannery Village. The developer's, Chestnut Properties, have assured us they will fix the potholes. This goes beyond potholes, into areas of complete degrading of the road surface, as the pictures show. The developer's say they have no money to finish our roads. Our community has a street committee that has been diligently working with the town to move Chestnut Properties to at least, repair, and at best post a performance bond or a guarantee to complete our roads. As far as I know, at this date, they have done neither. If the town ordinance requires a performance bond be posted by all developer's, one must assume that to not post a bond would then be illegal. If the resident's of Cannery Village wait another year, we will be going on the ten year mark, with the roads getting worse every year. As resident's of the Town of Milton, and taxpayer's, we expect no less from our new Town Council then to stand by it's taxpayer's and do the right thing. I ask that the town please place this subject matter, Cannery Village Streets, on the agenda for the next Council Meeting. Thank you.

Mayor Jones: Thank you.
- James Welu, 30263 East Mill Run: I am not going to talk tonight about Dry Zone, although I received this evening Google photos of the Dry Zone property over the last 15 or 20 years and I will give them to the Council eventually. I have to review them myself; but it will show that the property was encumbered by a structure; half of the property was encumbered by a structure, as late as 2001, which is the point I had made many months ago and haven't seen any response to that yet. What I want to talk about tonight is all the property-owners and all the citizens of Milton and, I presume, tenants; I may be wrong on this, as well as property-owners within the Town, will have the right to vote on our Referendum for the application for the water improvements on the second Saturday of the month. We're voting on an expenditure of over \$1.5 million. It seems to

me there are numerous people who have bought in Milton, who own property in Milton, but do not live in Milton and we have a budget well in excess of a \$1.5 million and yet those owners of property, in Milton, who do not live in Milton have no right to vote for you council members or you, Madam Mayor, on an expenditure far in excess of what we have the right to vote on in two weeks. I would like this Council to consider, as is done in Dewey Beach and in Rehoboth, allowing all property-owners the right to deal with the elected officials of this community, because we all have some interest in this community; not just financially and to pay our property taxes; but we also have an interest in the total benefit and well being of this community and I think we should have the right to vote. I know they have the right to vote in Dewey Beach and Rehoboth Beach, because a lot of the people are not permanent residents and we're getting to that state in the Town of Milton, too, where a number of people are buying in this community for future residency, or buying in this community even like myself, for the improvement of this community and I think we all ought to have the right to vote for our elected officials who have primary responsibility for a major expenditure that involves all of us.

Seth Thompson: Just for the public's awareness, property-owners are allowed to vote in the Referendum that's coming up, as our residents. You don't have to be a property-owner, you can be a resident, you can be a tenant, so both are allowed to vote in the Referendum; your municipal election is under a different set of rules where property-owners would need to be bona fide residents.

James Welu: That's the other set of rules I'm asking you to rethink.

Seth Thompson: But I just wanted to make clear to the public that, again, if you're a property-owner, but not a resident, you can still vote in the upcoming Referendum.

- Ray Jung, 208 Sundance Lane, Cannery Village: I've got three questions about the Referendum on the 13th; one general and two specific. First, if you all could review the reasons for this referendum, for the expenditures and secondly, you state that the Town Council will fix the rate for taxes and whatnot; I'd like to know what that's going to be. You state that one of the benefits is going to be an increase in water pressure; which I would greatly appreciate, because I've got 25 lb. water pressure coming into my house and I'd like to know what the increase in the water pressure is going to be. So if you could address those things, I would appreciate it. Thank you.
Mayor Jones: Mr. Abbott, could we do that during your Town Manager's report, a simple review?
Win Abbott: Yes.
Mayor Jones: Thank you.
- Jeff Dailey, 211 Gristmill Drive: Welcome to our new Mayor and two new council members and thank you, Mayor and Council, for allowing me to speak tonight. On that topic, I would like you to consider something that came up during the campaign process. I have a number of neighbors throughout Milton who have vast experience in their careers, they're not retired. There are also younger folks, who are working in careers, where they bring unique expertise to any number of issues that face our Town, but the only opportunity they have to address the issue at hand, with all their expertise is during this public form period and I just think that happens to be a waste of talent and energy and dedication from the citizens; so when we have developers who come in with their

engineering professionals and they address the problem, which is an agenda item, on the agenda, I would very much appreciate it if the people who are actually living in those neighborhoods, or who are impacted by the decisions that you all make, based on so-called experts presenting before you; I think you should call on the experts who actually live in the area or who are most impacted by the decisions being made and case in point, my neighbor Ed Kost, who addressed you earlier, this man has been on Planning and Zoning Commissions prior, not only here in Milton, but elsewhere; he has such a vast knowledge and I really hope that you will consider changing this format, or augmenting it, because we have so much talent in this town, so much dedication, we really need to tap into it. Seven years ago when I moved to this town a couple of the folks who'd been here a lot longer than I have, even now, commented that Milton seems to run on rumors and I took that comment with a grain of salt and then in my second year of living here, I said absolutely. It's amazing. This town runs on rumors and not very well. For the past three years, unfortunately the rumors have seemed to emanate from what our Mayor has been up to and I don't mean to malign, Cliff Newlands; he served as our Mayor for three years; however, he made unilateral decisions and unfortunately many folks are going to be paying for those unilateral decisions for years and years to come and I know that we have a Mayor who has professed to want to hear from the public regularly; who will not only lead and inspire us, but has the expectation that we will lead and inspire her, in turn. Given the turnout tonight and the turnout over the last three years, from one meeting to the next, I think this is going to, hopefully, be the case. There is a wonderful feeling in this room, certainly when you are swearing in newly elected officials, that has a buoyancy, but I think that the good feeling could last, if we all participate and continue to invest in our community. There are no shortage of issues facing this town. I want to see aggressive stands on this sewer treatment plant and the nature of the contract that was signed with Tidewater is being completely ignored and this bid to buy land adjacent to the sewerage treatment plant, if this town doesn't stand up and shout loud and long and demand that everybody from the Governor to the Attorney General's office look at that contract and say, these people are being poorly served. You people are consumers and you have rights. The streets in Cannery Village, a number of my neighbors have spoken already, more may, they are now dangerous and we went through that with the Shipbuilder's paving and they're going to cost the town more money, because they are degrading; the initial paving is now degrading. It's dangerous. It's going to be costly to put that down, just like we learned in Shipbuilder's, because they'd been left for so long it added \$10,000 to the paving project. We have got to get smart and Mayor and Council you have got to let us know what is facing this town. There was a call for workshops to list before the public what big issues were coming down the pike. For the last three years we learned of them last minute; thanks to the citizenry really wanting to know the facts on a water referendum; that water referendum was defeated. Now that's my take on it, but I think that given the vote count, there are many who agree with that decision. Are we ready? I hope so and Mayor, I hope that you continue with the Ad Hoc Committees. I hope that you'll consider an Ad Hoc Committee, oftentimes it is made up of not just citizens in Milton, but in the mailing address area. We have all kinds of effluents being sprayed on fields right in our own backyard. We need to hear from citizens who don't live in Milton. We need their energy, their time, their talents, on Ad Hoc Committees. We can't stop. There are too many things coming down the pike and it is a rough road that we have to traverse and I hope that we are given powers to let everyone know what

is happening in this town from this day forward. I thank you all very much.
Mayor Jones: Thank you.

- John Horan, 304 Brick Lane: First of all congratulations again to John and to Mike and to our new Mayor. What I'm handing out here. We talked about our roads and our roads are absolutely abysmal. A week or so ago there was some fellow, a gentleman named Eric Johnson from American Electric digging across the street from me. I went over and I said well are you contracted with Chestnut Properties? He said, no, he's contracted to Sposato, the irrigation company. Well long story short, there was a power line that controlled the irrigation, it was an electrical line, that was severed. He went through, traced the line; when he finally found the point where it was broken and I refer you to the fourth paragraph down, the electrical pipe work was not buried deep enough; either only 6" or 16", at it's deepest point. I believe the Code says 20". That tells me if I call Ms. Utilities (I don't know what they call it here in Delaware) if I want to plant a tree, they'll come in and they'll mark off where the power lines are and stuff like that. They won't tell me how deep they are. Now this is another case within Cannery Village where the Code is not met. I understand that we have got a punch list of multiple pages, single spacing, about the Streets and Sidewalks; that is an absolute safety hazard. The depth of electricity is even a bigger safety hazard, because you can get kids out there digging up to 6" into the ground. What can the town do, and I say the town, what can the elected representatives of the town do to help protect Milton; because Milton is not the City Hall, it's not the Council; we are Milton. Okay, another thing I have is last month it was mentioned about sending a letter to Chestnut Properties and Chestnut Properties came back in with an answer that says it's not applicable because it's not a sub-division. I have drawings here that I have shown to Seth, that identify Phase 3 as a sub-division. Now Phase 3, that's if you recall way back when, when it was still part of Cannery Village, they were going to the Planning and Zoning Commission to have everything laid out in lots. I've got the drawings here and it was identified as sub-division 3A. Now, if the LPD consists of multiple phases built in different increments, it sounds reasonable to me that Phase 2 is also a sub-division. We complain that we do not have put the teeth in the ordinances, to demand that a contractor comply with them. Now I find it strange, you're elected officials. If I don't pay my taxes, you can come out and put a lien on my house and of course, the great power in the sky, the Homeowner's Association, if I don't pay my dues, they can put a lien on my house; are you saying that if someone doesn't comply with the Ordinances, is that breaking the law? Chestnut Properties owns property in Cannery Village. Why can you not put liens on their property? Thank you.

4. Moment of Silence

5. Pledge of Allegiance to the Flag

6. Call to Order – Mayor Jones

Mayor Jones: I'll call the meeting to order. It is 7:30 p.m.

7. Roll Call – Mayor Jones

Councilman Booros

Present

Councilman Collier	Present
Councilman Cote	Present
Mayor Jones	Present

8. Additions or Corrections to the Agenda

Mayor Jones: Any additions or corrections to this evening's agenda?

9. Agenda Approval

Councilman Booros: I make a motion that we approve the agenda, as written.

Councilman Cote: Second.

Mayor Jones: Any discussion? All in favor say aye. Opposed. Motion carried.

10. Presentation and Approval of Minutes: February 26th, February 28th and March 4, 2013

Mayor Jones: We have three sets of minutes this evening, February 26th, February 28th and March 4, 2013. Two of them were water referendum meetings. I need to ask Mr. Thompson, at this point, Councilman Collier has indicated that he doesn't necessarily feel comfortable voting on minutes of which he was not a part. I don't know how Councilman Cote feels.

Councilman Cote: I agree.

Mayor Jones: That would only leave two of us. Do we need to postpone this until the next meeting?

Seth Thompson: You can, and you should.

Mayor Jones: Could I hear a motion?

Councilman Booros: I make a motion that we postpone the approval of these minutes, until the next meeting.

Councilman Cote: Second.

Mayor Jones: Any discussion? All in favor say aye. Opposed. Motion carried.

11. Mayor's Report (discussion and possible vote on the following)

a. Proposal to schedule workshops on April 10th and 22nd, 2013

Mayor Jones: The first thing I wanted to do was propose to the Council that are here tonight and for the citizens, that we notice a couple of meetings in the month of April, for the sole purpose of allowing your Council to work out publicly, those goals and long range projects, appointments and discussions about committee assignments. I would like to meet for the first time on Wednesday, April 10th and I would like to meet again, as a follow up to that discussion on Monday, April 22nd and I wondered how calendars look for those dates.

Councilman Booros: Is the room available on those dates?

Mayor Jones: That would be a good question. The 10th and the 22nd at 6:30? This would give the public an opportunity to hear Council discuss those people that they feel are well qualified, once some Chairman positions are appointed this evening, for some of the committees, so we'll be conducting that in public and then in the month of May, it is my intention to pick a day and turn it around and have an actual Town Hall Meeting in which the citizens are then open as a workshop; I'm not sure what Mr. Thompson will advise us to call it; but it will be an opportunity for the Council to participate and let us hear, in a more lengthy discussion, Mr. Dailey, what ideas are out in the community. Hopefully plenty of people will come to that and it will be well noticed for you too. So

providing we can have the room, any feelings on these two workshops that I would like to start right off with?

Councilman Booros: Those dates are fine with me.

Councilman Cote: Those dates are fine.

Councilman Collier: Dates are fine with my calendar. I look forward to that. It's time to roll our sleeves up and get to work

Mayor Jones: Do we need to vote on this?

Seth Thompson: You don't, you just need to notice it.

Mayor Jones: Very good, thank you.

b. Proposal to re-schedule May Council meeting to May 9, 2013

Mayor Jones: The second matter is one of personal request as to whether or not... Our charter does say that we shall have our Council Meetings on the first Monday of the month. I am unavailable the first Monday in May, due to yearlong reservations and time that I spend with my sister on vacation. I am asking Council's permission, this evening to move that date to the 9th of May and I would make sure with Mr. Thompson that that's alright. I have only one other council person who voiced that they may not also be available on the 6th of May.

Seth Thompson: Your Charter does allow for the fact that if you wouldn't be able to meet the requirements, you can schedule it for that second Monday.

Mayor Jones: Well, would that be a better... that's the 13th. Would that be a better arrangement?

Seth Thompson: Isn't that the date? I'm sorry.

Mayor Jones: No, the 9th is a Thursday.

Councilman Collier: The 9th is a Thursday.

Mayor Jones: The 9th is a Thursday, or the Monday, the 13th. It's really wide open to anybody's... I just am not able to make it on the 6th.

Councilman Booros: It doesn't matter to me.

Councilman Collier: I have a conflict as well on the 6th, so if that's of any assistance to you in making the decision.

Councilman Booros: I could have a conflict on the 6th, too, if you'd like me to.

Mayor Jones: No. No. I know I said honestly.

Councilman Cote: If they have a conflict on the 6th.

Councilman Booros: I have no objection to either that Wednesday or the following Monday; it doesn't matter to me.

Councilman Collier: Let's make the decision based on the room availability.

Seth Thompson: Typically, Monday's tend to be better days, at least that's been my experience, but we didn't send Robin down with that information.

Mayor Jones: I am sorry, too. So we would be looking at the 13th. Do we need to come back and make a vote, or are we in agreement?

Seth Thompson: You just need to notice it for the 13th, but it's nice that you're doing it in advance so the public is obviously aware of the change.

Mayor Jones: Okay, then let's be looking to May the 13th, that is the second Monday. Thank you very much.

c. Council and Committee charters, appointments and web site profiles

Mayor Jones: I gave you all copies this evening when I sat at the table for appointments.

I considered the first appointments that needed to take place were on the large voting boards, Board of Adjustments, Planning and Zoning, Historic Preservation. Would you like these read, as such?

Seth Thompson: If you could, I think that would probably help our audience.

Mayor Jones: We'll revisit that, because I'd like to have two of those meetings before we meet with the public in May. So let's see what else we can do with that. I'm making a recommendation to Council for the following appointments. Some of them are continuations, pending anyone on these lists that need Ethic Forms filled out and I have given copies to both Mr. Thompson and Mr. Abbott, indicating those that need those done. The Board of Adjustments: Jim Crellin, Bob Carbone, Matt Dotterer, Janet Turner, and Valerie Valesco. Do you want them voted on each?

Seth Thompson: Whatever is going to be the clearest record.

Councilman Booros: I make a motion that we approve the names for the Board of Adjustments as read by the Mayor.

Mayor Jones: Do I hear a second?

Councilman Cote: Second.

Mayor Jones: Any discussion? Let's take a roll call vote:

Councilman Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. And for Planning and Zoning: Lynn Ekelund, Barry Goodinson, Tim Nicholson, Linda Edelen, Bob Heinrich, Mark Quigley.

Councilman Booros: I make a motion that we accept the names as read for the Planning and Zoning Commission.

Councilman Collier: I'll second that.

Mayor Jones: Any discussion?

Councilman Cote: Quick question. The Chairman line is blank?

Mayor Jones: That's correct.

Councilman Cote: That's appointed by the Commission?

Mayor Jones: That actually, if I'm not mistaken, comes from the group itself, Councilman Cote.

Councilman Cote: Okay, thank you.

Mayor Jones: Any other discussion?

Councilman Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. The Historic Preservation Commission is a delicate one. I believe it calls for either 3 or 4 members on the Commission to be in the Historic District. Right now, I have 4. I was unable to reach one person to confirm, so tonight I'm making the recommendation for approval for Dennis Hughes, Ted Kanakos, P. D. Camenisch, Mike Ostinato, Kevin Kelly, and Mike Filicko.

Councilman Booros: I make a motion that we accept the members proposed by the Mayor for the Historic Preservation Commission, as read.

Councilman Cote: Second.

Mayor Jones: Any discussion?

Councilman Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. For Council appointments, I, with a great deal of respect and honor would like to nominate my new Vice Mayor as Councilman John Booros, Treasurer, Councilman Cote and in front of you, you will find a letter of intent and a resume from a woman that I met during my campaign time and I would like to see us offer her my vacant seat, Ms. Estelle Parker-Selby.

Councilman Collier: I make a motion to accept the council appointments, as read.

Councilman Booros: I'll second it.

Mayor Jones: Any discussion?

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. Appointments for Committee Chair Positions. This is not a complete list, right now. It's a reappointment for Councilman Emory West to the Water Committee. Streets and Sidewalks, Councilman John Collier and Chairman of Parks and Recreation, Vice Mayor Booros. Hearing no objections, do I hear a motion.

Councilman Cote: I make a motion to approve the chair persons, as read by the Mayor.

Vice Mayor Booros: I second.

Mayor Jones: Any discussion? Roll call vote, please.

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. The Personnel Committee will consist of Vice Mayor Booros, Councilwoman Parker-Selby, Councilman Collier and myself, Mayor Marion Jones. Hearing no objections, do I hear a motion?

Councilman Cote: I make a motion to accept the Personnel Committee as read by the Mayor.

Councilman Collier: I'll second it.

Mayor Jones: Any discussion? Roll call vote.

Vice Mayor Booros	Yes
Councilman Collier	Yes

Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. Two pieces of data. One is I'd like to form an Ad Hoc Committee right now to look into college research, as to whether or not we still have a college and a businessman who's interested in looking in this area; what the requirements would be so that we are going to send a small envoy of folks out to get that answered definitively, so that we can put an end to some of the rumors and it can be announced here in public what has been found out during reporting. I'd like that Committee to be chaired by Mr. Don Shandler, with Bob Howard from the Economic Development Committee and our Town Manager, Win Abbott.

Vice Mayor Booros: I make a motion that we accept the names listed by the Mayor for the Ad Hoc Committee in the college research, as proposed.

Councilman Collier: I'll second.

Mayor Jones: Any discussion? Roll call vote.

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. Also an Ad Hoc Committee being formed for a police study. I'd like this Committee to be chaired by John Bushey, with members Judy Shandler, Lynn Ekelund, Roger Thompson, and Chief William Phillips.

Councilman Collier: I make a motion to approve the Committee as read by the Mayor.

Councilman Cote: Second.

Mayor Jones: Any discussion? Roll call vote.

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. Authorized signers.

Seth Thompson: We have an Resolution for that, authorized check signers. Resolution 2013-07 is to designate authorized signers for payments from the Town. This is part of your Charter. It's in Section 17. The Resolution simply reads: WHEREAS the Town Charter of the Town of Milton, Delaware provides in Section 17 in pertinent part that the Treasurer, or his/her designee, shall pay out no money except by check or warrant, counter-signed by two authorized signers and authorized by the Town Council. NOW THEREFORE, be it resolved by the Council of the Town of Milton that the following individuals shall be authorized signers for purposes of Section 17 of the Town Charter.

Mayor Jones: I have a d). What do I do?

Seth Thompson: Well we can add these people in, that's why I left space. So it would be, as amended, when you're ready.

Mayor Jones: The authorized check signers I would like to have Treasurer, Councilman Cote, the Vice Mayor Booros, Councilman Collier and myself, Mayor Jones. This is

pending being bonded, is this a procedure for this position?

Seth Thompson: The Treasurer is the one that signs the bond. This is somebody that's now authorized to sign a check.

Mayor Jones: Very good, thank you.

Vice Mayor Booros: Do we have to vote on this Resolution?

Seth Thompson: You do.

Vice Mayor Booros: I make a motion that Resolution 2013-07 designating authorized signers for payment from the Town as set forth by the Town Solicitor and the Mayor, be approved as read.

Councilman Collier: Second.

Mayor Jones: Any discussion? Roll call vote.

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. The Charter and Ordinance Review Committee, which will remain the same, the appointment is the Chair, who is Councilman Collier, James Wagner, Sam Garde, Richard Miller, Glen Howard and Don Mazzeo.

Councilman Collier: I make a motion to approve the Charter and Ordinance Review Committee as read by the Mayor.

Councilman Cote: Second.

Mayor Jones: And discussion? Roll call vote.

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. The last, which remains nearly the same is Mr. Cote's position on the Cannery Village Ad Hoc Signage Committee. Wishing to eliminate him wondering what hat he wore, we have put him on in his Council position and also remaining on that Committee will be Robert Weston, Bob Frazier, Roger Thompson, and Project Coordinator, Robin Davis.

Vice Mayor Booros: I make a motion that we accept the Cannery Village Ad Hoc Signage Committee members, as stated by the Mayor.

Councilman Collier: Second.

Mayor Jones: Any discussion? Roll call vote.

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. Thank you for your patience. The other committees, this is a work in progress. I will also be bringing things forward in the month of May.

The Council and Committee charters, appointments and website profiles. I asked Mr. Abbott to put this on the agenda this evening, just so we could collectively talk about it and I'm sorry that Councilman West and Councilwoman Patterson are not here. I've been amiss in the last year. I've put no bio up on the web and I just wanted to get a consensus among the members, new and old here, what do we want to go forward with and if we want to put some kind of a brief bio on the web, if we all agree to that, set a time so that we can get that done, so it looks good on the web. Our website is, after all, our business card and it needs to be as sharp as possible. Any feelings about what you'd like to have added to your names?

Vice Mayor Booros: I think it should be brief.

Councilman Cote: Brief is good.

Councilman Collier: Brief and a point of contact, so that everybody else knows how to reach me as a council person and you could at least find it on the web.

Mayor Jones: Okay.

Councilman Collier: I don't think anybody's interested in where I was born, what size shoes on that, anything like that, or my favorite color.

Mayor Jones: So we can be in agreement on that. Would everyone feel comfortable making sure that we have something prepared and we can turn into Mr. Abbott at our May meeting, for Council?

Councilman Collier: I'd like to do that.

Mayor Jones: I'd like to do that.

12. Discussion on written committee reports

Mayor Jones: I didn't ask Mr. Abbott this, but I want to make sure that one of us does it in introducing Mr. Russum. Did you plan to do that this evening?

Win Abbott: Yes.

Mayor Jones: Then I will not.

13. Town Manager Report

Mayor Jones: Can we start with the Town Manager's Report, this evening.

Win Abbott: Thank you Madame Mayor. Yes, I would like to announce that Dustan Russum has been pointed as our Public Works Director. Congratulations, Dustan. A position has been advertised to fill Dustan's shoes in the local papers and the appointment closing is this coming Friday. We have been receiving applications for that. Those persons who did apply for the Public Works Director position and have gone through the selection process, need not reapply. We have all the information and it's all quite relevant to filling his position that was vacated. The Council and at least 25 members of the public have a printed copy of the Town Manager Report and by the way, the town website, the announcements for the upcoming Council Meetings is becoming more robust. You'll find that seven days ahead of time, that you are getting the Town Manager Report and Financial Reports and some other things posted so that you receive the information as early as does the Town Council. Sometimes there's additional background information that only the Council sees; it just helps them in their decision making process. The first item that's on the Town Manager's report is the property tax appeals. They were granted to many appellants at the March 18th meeting, however, it's not a real simple process to recalculate exactly what the changes are for each home, whether it be the land value or the improved space within your home, and we've been in touch with the assessor and are pressing him to deliver the adjusted property tax values; there will be no penalties for persons

who are granted an appeal and don't have the numbers in order to pay us. Once we get the letters to you, you will have thirty days after that to pay the town, without any penalties being incurred. The language for the water improvements referendum, which will be on April 13th was approved at the Council Meeting on the 18th [of March]. This language was also sent to the Department of Elections to be included on the ballot machines which have been ordered. There have also been numerous advertisements and bills posted throughout town indicating what the referendum is for. I suppose that now is an appropriate time to address questions from one of our citizens and the public. I encourage you to review what is on the town's website. You'll find a full presentation that was given to us by our engineer, once we redid the 2009 study, which indicates all the recommendations. You will also find on the town website, reports, agendas and minutes of all the Water Committee meetings that have occurred over the past year; where step-by-step they've narrowed down the items which they recommended for the Council. There were no deviations on the part of Council from that which was recommended by the Committee and of course, all the discussions that occurred in public meetings, by way of Council and at the Public Hearings, you can find, as well. In short, the improvements will provide for redundancy, which we do not have. Right now we only have one water treatment plant. When this is done, we'll have two. Right now we have only two small lines that cross the Broadkill River that provide water supply for both the convenience of having water pressure in your home and also the necessity of fire suppression capabilities. When this project is done, we'll have an additional very large main which will follow the railroad right-of-way from Wagamon's West Shores to the area south of town where we have Cannery Village and the quickly growing community of Heritage Creek. Yes, this will improve your water pressure. No, we do not know what the water pressure will be when it comes to that, because that would require an engineering study which is needed, by flushing hydrants in every single quarter and doing some calculations thereof. I'm not sure about the questions of where we're going with the rates, but it does say that the Town Council will set the rates and fees for all things, including water service. This traditionally occurs each year, effective October 1st, which is the beginning of our fiscal year. The project, if approved, will not be completed by that time. The Council may have to make a decision at that time, or shortly thereafter in order to determine how best to do the cost recovery. There was another question with regard to principal forgiveness. The Environmental Protection Agency provides this funding to the State of Delaware Office of Drinking Water and as a sub-grantee, the Office of Drinking Water uses the funds in various ways. In some cases they use the funds to provide education for professionals, like Mr. Russum and others from throughout the State of Delaware to go to Delaware Technical and Community College to learn all the things that are necessary to become a licensed public water utilities operator and this subsidizes that education. There also are other uses that the funds have. One of them, of course, is to provide the principal necessary to make significant water system improvements and they have the option of providing some principal forgiveness for loans, but the State is allowed to set their own criteria for that. Last year when we were at this point, they were quite definitive, that 35% of the principal would be forgiven if the referendum were approved. That referendum was not approved and they reset the table for this particular referendum time. The last word from our engineer and from the Office of Drinking Water was that we may see some principal forgiveness, but none was considered. That is, they were keeping their options opened and it wasn't considered as part of any kind of repayment scenario for the Town of Milton's proposed water system improvements loan. Since that time and this occurred just last week, the Town of Selbyville came up to a water emergency; that is they found a residual amount of MTBE, that stuff that they put in gasoline that stops your engine from knocking when they stopped putting

lead in the gasoline and they found that in the water system; the State of Delaware determined that that was an emergency they had to take care of right away and improvements to their system would be 100% forgiven and there would be no principal forgiveness for any other loans during this iteration of the program. So, whatever it is that is necessary for us to do the improvements is what we'll be paying back. There are cost estimates for what we are doing and what we're proposed to borrow is far in excess of what our cost estimates are. It is my understanding that the construction industry has been very competitive, too, so we may come in quite a bit lower. We won't know until it's done. It's just like a construction loan for a home, when you don't know all the things that you might come up against. Nonetheless, we've had engineers study this. The upper level of \$1.725 million is more than what is necessary and we should come in significantly below that. My best estimate is that the cost per household will be approximately \$68 per year, if the loan were approved and we did all the things that we had. On the backside of the Town Manager's Report is a Shipbuilder's Village update...

Vice Mayor Booros: Excuse me. While we're on this topic right now, I'd like to say something. I called the Office of Drinking Water to double-check to see how have they been running on forgiveness with these things over the years, because, personally and I've talked to Mayor Jones about this, if I had known three weeks ago, or two weeks ago when we voted on the Resolution to move forward with the referendum that there was no chance of any forgiveness; the amount of forgiveness of 30% could have possibly been \$600,000 that we wouldn't have to pay back over a twenty year period, that could be better spent somewhere else. I, personally, would not have voted yes to move forward with the Resolution to go forward the referendum. That's my personal opinion and now that the information has come to light, what I found out was that in 2009 there was 50% forgiveness, because they had stimulus funds they had to give away; 2010 there was 9%; 2011 was 35%; 2012 was 35%; this year is 30% and they've given it all to Selbyville; they're projecting 30% for next year. They use the current year to project what the forgiveness will be next year. They also, in that letter Mr. Abbott shared with us the other day, recommended that if we were counting on any portion of that forgiveness and I am always counting on forgiveness; we may not have known what we were getting, but \$600,000 is \$600,000 that you may want to pull your application and resubmit it in August for next year. That's no guarantee that it's going to be any different next year; she explained to me that they could give Milton 5% forgiveness and give Milford 40% forgiveness, but typically it's 30% and I think we need to revisit the Resolution that we passed a week ago, two weeks ago, whenever we passed it to move forward with this referendum.

Seth Thompson: Procedurally it would be a Motion to Reconsider.

Vice Mayor Booros: I make a motion we reconsider the Resolution; whatever you want Mr. Thompson. I know it's not on the agenda for tonight to discuss this. I don't know if we have to have a special meeting to discuss this; just to discuss this, but I think it's important.

Seth Thompson: This would warrant calling for a special meeting, meaning something that has less than seven days notice.

Vice Mayor Booros: We have seven days.

Seth Thompson: If you can do the seven days, just based on the Library's schedule or whatever, then obviously that would be the preference, then it wouldn't be labeled a Special Meeting under the Freedom of Information Act.

Vice Mayor Booros: That's my personal opinion. I'm not the only one sitting here at this table, but I think it might warrant waiting. I think that in our water bill we could have sent something out that said this summer when it's 100° degrees out, let's everybody be a little more diligent and not everybody water their grass on the same day; maybe alternate days. Something to get

through this year. We've just spent a lot of money again, or we just had a final repair done on the water tower; I assume it's a final repair done on the water tower; that we did the temporary repair on last summer. It's been repaired again. I don't know that... I have no water pressure. I'm on Broad Street and we have no water pressure and I'm 200 yards from the water tower, so I don't know what everybody else does, but mine sucks. Okay? That's just my opinion. I don't know what the rest of Council feels. You all didn't vote on the Resolution to move forward, to begin with.

Councilman Cote: Vice Mayor Booros, when you spoke with them, you didn't happen to inquire... My recollection is that when this came up last year, it was a 30-year repayment.

Vice Mayor Booros: 20-year.

Councilman Cote: Well, the one that got defeated was over a 30-year period.

Vice Mayor Booros: This one's 20.

Councilman Cote: This one's a 20-year period. Do we have any idea what next year's...

Vice Mayor Booros: No idea.

Councilman Cote: If we reapply for next year...

Vice Mayor Booros: I just didn't know... The reason I called her was I didn't know if this forgiveness thing just started last year, whatever; it started in 2009 because of some stimulus money that was passed down and it was a 50% forgiveness in 2009. It's a lot of money. When you're talking \$1.7 million, you're talking about almost \$600,000 over 20 years; that's \$600,000 that the infrastructure of this town could use to fix up this town.

Mayor Jones: Well, let me ask you a question; that 30%, there's no guarantee that's going to come to one municipality either, is that correct?

Vice Mayor Booros: It could be 30% to all the municipalities; it could be 100% to Selbyville; that's what happened this year. Last year we were pretty much guaranteed 35% and that's what the amount was last year, when we went forward with that referendum it was 35% and that's what they told me. It's based on the town's financial ability to pay and everything else. I just don't want to see us rush into something that you know... I don't know how much of an emergency it is. I just know that I, personally, if I'd have known this information two weeks ago, I would have voted no to move forward with the referendum.

Mayor Jones: Of course we could find ourselves here again next year with no forgiveness.

Vice Mayor Booros: Absolutely.

Mayor Jones: Just a year passed without beginning the improvements.

Seth Thompson: I don't know if the new council's members need some time to consider this; again, I would view this as something that if you could have seven day's notice, by all means give seven day's notice and call a regular meeting and you can just have a motion for your reconsideration.

Vice Mayor Booros: It could be the only thing on the agenda for that night.

Seth Thompson: Since you voted in favor of it, you're able to bring the motion.

Vice Mayor Booros: Well I make a motion that we set up a special meeting, seven days or as soon as we can get notice to reconsider the resolution to go forward with the referendum for the water improvement.

Councilman Cote: Do we need somebody who voted for it to be the second?

Seth Thompson: No. He can make the motion and somebody else can second it and then you can have discussion at that point. And remember, the motion was actually to schedule the meeting, for the motion. Does that make sense?

Councilman Cote: Second.

Mayor Jones: Any discussion?

Councilman Collier: Yes, I have some discussion and I want to get to understand this now. Are you talking about forgiveness being a savings. The question that I have is, water funds are proprietary, so even if we save \$600,000; we can only reinvest it in the water system, as that's where the revenue was derived from to begin with; so it's not like we're going to take that \$600,000 and save it on this thing and be able to put it into the streets or anywhere else, so I'm not...

Vice Mayor Booros: Absolutely. It's \$600,000 that we won't be paying out over the next 20 years, bottom line.

Councilman Collier: I understand that. I just want to make sure that everybody understands...

Vice Mayor Booros: No, if I'm going to pay out money in the water bill every month, I'd rather pay a little bit more in my taxes and fix the sidewalks, or fix the streets or fix something else and not pay back \$600,000 that we may not have to pay back. We just wait.

Councilman Collier: Well.

Vice Mayor Booros: This is just my personal opinion. I'm one vote out of seven.

Councilman Collier: And I understand this and the other thing that concerns me about withdrawing at this stage, is right now we're sitting at number six or seven on the list, which doesn't guarantee that they're going to have the funding to reach that far down the list to start with, so if we pull it and wait another year, what happens if we're twelve and we wait another year and we're ten.

Vice Mayor Booros: It's based on importance and I would assume if it were that important this year, that unless somebody really comes up with something next year, we could get bumped. I just didn't want this to be 44 million gallons of missing water that wasn't said tonight.

Councilman Collier: And I appreciate that it came forward and I think the public should know and I think it's enough for the public, I'm sure, that there are people in this room with just the information you've disclosed tonight, you may well have changed their vote on the referendum.

Vice Mayor Booros: I know it changed mine.

Councilman Collier: You certainly have the right to vote any way that you like, Vice Mayor Booros.

Vice Mayor Booros: Because two weeks I was all for it.

Mayor Jones: Look, we have a motion on the table. What would be the recommendation time-wise to meet to talk about...

Councilman Collier: You have to notice it properly, so you're looking at seven days out; so if you're going to cancel this thing eleventh hour and I think some of the commitments have already been made for voting machines and everything else, we better get on the ball with it.

Mayor Jones: So that I can give Robin the copy over here, of wanting to make sure the room is available, seven days out is Monday the 8th, that's very tight. Tuesday the 9th.

Councilman Collier: Well you already have a meeting scheduled as a council workshop on the 10th and the room is available; you could do it the 10th and we just have to change what your meeting is for; it would be a combined meeting. The way that I would look at it...

Seth Thompson: That would be the sole voting item, basically?

Councilman Collier: That would be the sole voting item and that makes the most sense, because it's going to take some time to prepare and get it properly noticed.

Vice Mayor Booros: Do the workshop after the meeting.

Councilman Collier: Exactly, so that's where I stand on this; if we're going to proceed with the possibility of withdrawing this thing.

Vice Mayor Booros: We're already going to be here that night.

Mayor Jones: Exactly.

Councilman Collier: So that's all the discussion I have regarding this.

Mayor Jones: So we have a motion and a second on the table to reset a meeting in reference to voting on the Resolution?

Seth Thompson: In other words, basically the vote is to schedule a vote on a motion to reconsider.

Mayor Jones: A motion to reconsider for Wednesday, April 10th at 6:30 p.m. in compliance also with an already mentioned Council Workshop. Should we take a roll call vote, please:

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried. Mr. Abbott, I had a question on your Town Manager's Report, the business on the bottom about Milton getting very close to their goal on water. As we're approaching the warmer weather, is this an item that should be put on the agenda for Council to consider water restrictions and in what form and what time frame for those restrictions? Is it time to do that?

Win Abbott: I would not recommend that.

Mayor Jones: You would.

Win Abbott: No.

Mayor Jones: Oh, you would not recommend it?

Win Abbott: No. If I may continue the Town Manager's Report, Shipbuilder's Village is the next item and regarding Shipbuilder's Village the curbs have been repaired and the paving should soon begin. That project will be completed within 28 days. St. Patrick's Day Parade was a big success; pictures are available on our website. And a better accounting of water use. As of today, the final check valve and more accurate meter was placed in the last one of our wells. So we're able to have far more accurate rate and we've discovered that, indeed, we were pumping water more than once and we were counting far more than what we actually use from the production end of things. On the consumption side of things, we've been trying to tighten up the accounting of what we actually meter, at the point of consumption vs. that which we produce and one of the goals that we've been striving for is to be able to match up on a given day, how much water was produced vs. how much was consumed. Therefore, be able to determine whatever is lost, for lack of a better word, in transition there. One problem that we have encountered is mother nature and that is many of the meters that are outside of our homes and businesses are inside of pits and when it rains, the pits fill up with water. On this past meter reading, over this past week, when I've pressured my department to get everything read in one day, if at all possible, it took them almost four days because 117 of the meters were under water and they have to pump out each one of these pits in order to be able to get an accurate read, even with this remote radio read meter device. So we continue to challenged, technically, with regard to tightening up this number, but it seems that ever month we're making more progress and as indicated here we've been able to probably pick up about one-third of the water that we were missing a year ago, by virtue of having better metering at the point of consumption and a better reading of that which is produced. Now, you were going to ask about the water restrictions. The point of having this in here, was for consumer education. When we received the letter from the Department of Natural Resources, which are the people that monitor the amount of water that we produce from our aquifer. They have a conservation goal for the State

of Delaware, which is an average of 100 gallons, per person, per day and that includes your industrial customers, your irrigation, your water loss events and so on. One of the recommendations that they made in that same letter, when they talked about our lack of accounting for some of this water that we've been working on this past year, is that we consider a tiered rate structure, that is where we determine what our target is for average consumption for a household and then charge a higher rate for those that exceed that rate of consumption within their household. This information is just put out so that the public can be aware of the fact that their conservation practices at home, matter. We're not in the growing season yet. We don't have a heat emergency going on. Our ordinance already allows for the Mayor to be able to do that, as was the case last year. So, no, I'm not saying that you need to think about making restrictions. I'm simply providing information for public education.

Mayor Jones: Okay and my comment was for conservation purposes only. Whether it was not something that Milton, as a whole needed to look at as part of it's yearly ritual of restricting certain yard watering. It's not a bad idea for conservation purposes, even if you had all the water you needed in above-ground storage. It's just something that I know we went through last year. People participated and seemed to do quite well with it. I didn't know whether or not Council wanted to talk about that any further as the weather warms up. Thank you.

14. Department Reports: Public Works, Project Coordinator, Code and Police

Mayor Jones: We also have a report in here from the Director of Public Works, his monthly report.

Councilman Collier: I have one question regarding the report. Mr. Russum, on your report I noticed that you have fixed chlorine pump in well house twice. Were there two different chlorine pumps, or did you have to fix the same pump twice?

Dustan Russum: I had to fix the same pump twice.

Councilman Collier: Alright, thank you, I was just wondering if we had a problem with two of them, or just one that was giving you problems.

Dustan Russum: Just the one that gives us problems.

Councilman Collier: Thank you very much. That was the only question that I had for you, Sir.

Mayor Jones: I have a report from the Code Department, both the Project Coordinator and the Code Enforcer.

Councilman Collier: I have a question for the Project Coordinator. On the first page of your report, you have an item marked with an asterisk in parenthesis, but I never found anything that told me what the asterisk in parenthesis meant.

Robin Davis: That asterisk in parenthesis should have been removed. That was a reference point for me to show where I was at.

Councilman Collier: Thank you very much. I was just concerned if there was a note that we were missing or something of that nature, is all.

Robin Davis: No, I just forgot to remove it. Sorry.

Councilman Collier: I have one other question and I guess you'll have to address it since the Code Enforcer isn't here. In the Code Enforcement violations you have left notices, action taken. Is that some sort of an official notice, is that a little note stuck in the door, or is that a sticker that is adhered to the door? I'm not sure what that is and how effective is this, because I've noticed this is my first month being able to comment, it seems to be a lot of trash cans left out in one particular neighborhood and I don't know if these are repeat notifications or what. It does appear that this is a monthly thing in this particular neighborhood, with trash cans left out.

Vice Mayor Booros: Maybe we could talk to the trash company about taking them up to their

houses?

Councilman Collier: Vice Mayor Booros, please. I'm just wondering what kind of notice is left, if you could give me an idea of what that is?

Robin Davis: If I'm not mistaken Councilman Collier it's a certified letter that's been sent out to the owners.

Councilman Collier: Okay, well that's a little different from left notice, but if that's what it is, then thank you for that information.

Robin Davis: I'll make sure on his report next month that he starts clarifying exactly if it was just a reference note or a certified letter.

Councilman Collier: Alright, thank you very much.

Mayor Jones: Any other discussion on the Code Report? The Police Report.

Councilman Collier: I have one question for the Chief of Police and I don't know if he has an answer, but I'm going to ask it anyhow, because it's a pattern that I noticed in the report and it appears since the passage of the latest budget, that revenues generated by fines collected, or the amount of fines collected has tailed off significantly and I was wondering if your officers are doing such a fine job that everybody's in fear and not doing violations that merit ticketing or if there was a reason for this pattern that appears in the report.

Chief Phillips: I would like it to be a little bit of both. Sometimes we have what's called Call the Counter, where we take care of the traffic summonses at our Court, the J.P. Court and the other cases that go to C.C.P., sometimes they plead them down and we don't really have a say in those.

Councilman Collier: Alright, that's fine. I was just wondering because I noticed this pattern and it seemed to coincide with the beginning of this current budget year.

Chief Phillips: It sort of comes and goes with the weather in the year.

Councilman Collier: Alright, thank you very much, Chief.

15. Finance Report and Revenue/Expenditures Report

Mayor Jones: Are there any comments or questions?

Vice Mayor Booros: Yes. I have one question. No I don't. Sorry.

Councilman Collier: I have one question as far as expenses go under Repair and Maintenance on page 7. My question is in regard to we, as a municipality, taking advantage of... there are State contracts that are available to municipalities and one of them happens to deal with Repair and Maintenance of automobiles. I may be wrong in saying this, but I don't believe I recognize any of these names as approved vendors under that contract and I'm wondering if there was any advantage to using somebody other than this contractor, or if it would be to our advantage to use a contractor?

Councilman Cote: What's the account number you're looking at, John?

Councilman Collier: The account number is 3-01-300-5450. Without having the State contract in front of me, which I neglected to bring, I just noticed that we have an oil change and one's at \$54 and one's at \$39; under the State contract there are vendors that will do a basic oil change and I assume that our vehicles are all basically the same, so they're taking 5 quarts to fill. I don't know what the cost for the difference in the prices in these are, I just know that by taking advantage of some State contracts and there are vendors that are within close proximity of the Town of Milton. In fact, I. G. Burton I know is one that was for repairs, but there may be some savings to be realized and no matter how small, in my world pennies still make dollars and I would encourage that if we're not taking advantage of a lot of these contracts that are available, they've been negotiated by the State of Delaware and they're available. Municipalities within

the state have the right to use them. Maybe we should look into that in the future.

Win Abbott: Your point is well taken. We have a six-month budget review and I'll be sure to show a comparative for that line.

Councilman Collier: Alright, thank you very much, Sir.

Mayor Jones: Are there any other questions on the department reports or the financial report?

Councilman Cote: I have one question. I guess next month I'll get to ask Kristy beforehand. It's on revenue. Miscellaneous Revenue, Admin. Year-to-date revenue is a negative \$5,000. Do we know why it's a negative?

Win Abbott: No, this is internal...

Councilman Cote: No, this is a Statement of Revenue and Expenditures.

Win Abbott: I know. If you'll notice the stamp, left hand, near the top of the page, see the stamp, it says without audit.

Councilman Cote: Yes.

Win Abbott: Okay, so that might be an opportunity. It might have been a posting error, so we'll review that.

Councilman Cote: I'll work that out next month with Kristy.

Win Abbott: Yes, Sir. Thank you.

Mayor Jones: Any more comments on our reports? We have your financial report.

Win Abbott: Madame Mayor, yes I was just going to say. I'm not going to go into the details of this. I'm going to just say this, that I've made a diligent effort for the benefit of both Council and the public and all the monthly Town Manager's financial reports are posted online. I've made an effort to make sure that I communicate the changes that have occurred that would affect the outlook. The format, month to month over the past year and a half, almost two years now, has remained the same; however, we have changed our basis of accounting from accrual to cash and then to a modified accrual basis and that changes the outlook. For example, right now we're looking at activity that is about a month old and it's in the middle of our period where we're collecting revenues from property taxes; something that's almost 50% or more of all the receipts that we have for the town. Under an accrual basis of accounting, if you have earned revenue, which we have in terms of the property taxes, even though it hasn't all been collected, it is all posted. So last year, when we had made the decision to show a cash basis, it changes our outlook when we're looking at this and we're counting that \$800,000 as if we already received it, but we haven't. By the end of April, early May, we'll be in that position and you'll see those reports about two months from now. So I've made an effort to communicate the changes that we've made in every single one of my monthly financial reports, if you will read the literal explanation of things, you'll be able to put things into perspective better.

16. Old Business – Discussion and possible vote on the following items:

a. PKS Audit Contract

Mayor Jones: Now I know Mr. Abbott, just before we changed Council we talked about this. It was put aside and I for one, was surprised to see it come back so quickly. Is this an item that we can refer to the budget review time? It looks like it's a...

Win Abbott: You can do whatever you want.

Mayor Jones: Okay. I didn't know if there was anything still pending, that this company needed our decision on a 3-year contract prior to our reviewing it during normal budget process. Nothing you're aware of?

Win Abbott: No, Ma'am. I just want to reference the information that was provided as an addendum to that, which indicates that for lack of a better explanation, for things such

as audits, there is a learning curve that's involved and there's a higher cost to begin these types of engagements. They're typically made in a multi-year commitment. Councilman Cote am I correct?

Councilman Cote: Yes.

Win Abbott: Okay, so to make a multi-year commitment with professional services, such as an audit firm, is to the advantage of the town. The town had the State of Delaware vet all these different accounting companies and come up with one that was not only the best, but also the least expensive and they asked for a multi-year commitment. The town only made a 1-year commitment and after they delivered their product, they had asked that we consider signing on for the multi-year commitment. It was deferred and now we have a new Council; and it's back on. This Council can choose to take it up any time they want, but sooner would be better than later.

Vice Mayor Booros: Madame Mayor, I would prefer to see the full Council vote on this and we have several council members not at the table tonight.

Mayor Jones: Would that be a motion to table this?

Vice Mayor Booros: I make a motion we table this for a month or two.

Councilman Collier: I'll second the motion.

Mayor Jones: Any discussion? All those in favor say aye. Opposed. Motion is carried.

- b. An ordinance to amend Chapter 188 – Subdivision Streets, completion of streets and sidewalks

Seth Thompson: This is an ordinance that's come up a couple of times, Council's given me their input. In it's current iteration, basically what we're dealing with is when the final paving needs to occur in an approved sub-division; so at one point the number was 85%, that was a place holder. Based on Council's input, it is currently at 80% of the lots in the sub-division or in the phase, if the development is being done in phases; are either sold or built upon. So the 80% threshold would then trigger the requirement to complete the streets. The other alternative is that if five years have passed, since final approval of the sub-division, that would be an alternative trigger to need to do the final coating on the streets. So this is designed to strike a balance between the people that buy into a sub-division fairly early on, but want to know when are my streets being done and also giving some assurances to those people, that it's not an open-ended ticket; that they're going to be waiting decades for their final coating; but then also giving the developer some flexibility. You'll see in there that the developer can come in and apply for a good cause shown, for some sort of alternative, whether that's if he's going through that phase to build another phase; there would need to be good cause shown.

Vice Mayor Booros: Does this apply to Large Parcel Development?

Seth Thompson: Large Parcel Developments are really a zoning... It's not a... I understand the argument that's being made in one particular development that somehow an LPD is in place of a sub-division, but in my reading of your Code, a sub-division is within your sub-division ordinance; an LPD is within your zoning ordinance. It's a zoning matter when it comes to an LPD. The short answer would be yes. The other thing, the most recent addition, I believe Council last time wanted it expressly provided that the town could claim against any bond, so I included in there that the town may claim on any bond or guarantee, in addition to any other remedies provided within this Code. The other item is we had some discussion in terms of the effective date in it's current iteration. It goes into effect immediately and applies to all sub-divisions and

phases that have not yet reached that 80% threshold, regardless of whether five years have passed. So at one point, we had said...

Vice Mayor Booros: Is this the first reading? Second reading?

Seth Thompson: Well it's been through a few amendments and frankly your Code doesn't require multiple readings, but if that's what Council wants, the more public notice, the better, in my mind.

Win Abbott: Mr. Solicitor, for all of our benefit, because there are people here with deep concerns about existing developments, so just to put this into context, is there not a constitutional prohibition against ex post facto laws and how would that play into this?

Seth Thompson: Keep in mind, too, that typically when you're talking about ex post facto laws, you're dealing more in a criminal context; when you're dealing with property it often involves the concept of vested rights, so in other words... That's why, for instance, we have pre-existing non-conforming uses; they continue for a certain period of time basically; that that person has spent money in reliance upon the Code that existed at that time. This is within your sub-division Ordinance, so I went through and researched Delaware case law and our Courts have made a distinction when it comes to the vested rights doctrine in terms of sub-divisions vs. zoning. So you can't necessarily just change zoning out from somebody, when they've already spent a bunch of money; that would need to occur over time; that's why we have pre-existing non-conforming, but again, this is the sub-division process. Frankly we're only putting a time frame on something that is a responsibility anyway. This needs to be done before the roads get turned over to the town. Now the developer and the citizens know when that is going to occur. So this isn't a new requirement. I would say that this is putting everybody on notice as to when this needs to be done.

Win Abbott: Thank you.

Councilman Cote: Mr. Solicitor, a question for myself and for some of the audience here, who are living with this problem. Specifically, if Cannery Village is 75% done, how does this Ordinance affect those streets?

Seth Thompson: This Ordinance isn't specific to just any development. It applies throughout town.

Councilman Cote: No. But I'm trying to get to is I'm trying to apply this General Ordinance that could be Heritage Creek or Wagamon's West Shores or Cannery Village to Cannery Village and say does Cannery Village get any relief from this?

Seth Thompson: Yes, this would apply to Cannery Village, just like it would apply to any development, because it's being applied to sub-divisions, so let's just take easy numbers; because I like easy numbers. If you have a sub-division with 100 lots, it presently has 78 lots built upon and/or sold, after two lots they're going to need to finish those streets, or after five years.

Vice Mayor Booros: You can't hold it against the guy who's on your ten, hold the five years against him, but you can hold the 80% against him? Right.

Seth Thompson: Well the Ordinance is set up so that it would apply to everybody. You're measuring that five years from the date of their final approval; now you can't say we need you to fly around the world like Superman, turn back the clock and do it five years ago; but the way it's written, that would require the person to come into compliance...

Vice Mayor Booros: Today, as opposed to when they hit the 80%?

Seth Thompson: Correct.

Mayor Jones: Well here's a simple question. It states under effective date, the Ordinance

shall not apply to sub-divisions and phases that have already crossed the 80% threshold at the time of the Ordinances adoption.

Seth Thompson: Right.

Mayor Jones: Can you tell me what sub-divisions those are, or phases?

Seth Thompson: I can't tell you, no. I can tell you what the intent was in having that already there and that was those people should already be in the process of this. They should already be going through and making their final preparations for final paving.

Sam Garde: 80% and five years? Or five years?

Seth Thompson: It's either/or. So let's say...

Sam Garde: So Cannery Village is more than five years; the guy needs to pave now. That's the question. What's the answer?

Seth Thompson: Correct.

Sam Garde: Correct. They need to pave now.

Seth Thompson: Yes, it's either/or. So we'll take my 100 lot sub-division again and let's say that the market is terrible and 8 units sell and five years past, those 8 people are going to have finished roads.

Vice Mayor Booros: Yes, and they finish the roads and the market picks up and they destroy the roads during construction and then the town is responsible for fixing all the roads.

Seth Thompson: And that's the balance that has to be struck. That's the difficulty. It's obviously up to Council. I don't have a vote. If you don't like the five year limit; if you think a better number strikes a better balance, that's certainly your discretion.

Councilman Cote: So, if by chance, you're at 81% and over five years, the five years kicks in?

Seth Thompson: No, the way it's written, it doesn't apply to sub-divisions that have already reached that 80% threshold.

Unidentified Speaker: And if they do nothing?

Councilman Cote: So essentially, if... and I'm going to use a specific example, if somebody came in and purchased 20 lots in a sub-division that got them over 80%, they would be exempt from this Ordinance?

Seth Thompson: No, are you talking about if they do that tomorrow?

Councilman Cote: If they're going to do it tomorrow and we're not approving this until next month.

Vice Mayor Booros: We can approve this tonight, Councilman Cote, and I'll make a motion that we do approve this tonight.

Seth Thompson: Then yes. The one, and again, you can amend it; I'm not in love with any of the numbers here, they're not some magical numbers. I don't know if the town has received any comments from developer's. I know we've certainly received a lot of comments from resident's and that's why you guys get paid the big bucks to sit up here and make these difficult decisions, I suppose.

Mayor Jones: I just want to make sure if we are going to go forward with this Ordinance, that we are capturing the very sub-division, the very location that needs the most help right now; otherwise I think it's a great planning tool for other developments, but we have one that is really right in the forefront right now; so I want to make sure that this captures their needs, as well.

Councilman Collier: I believe that this begins to give you something to begin to at least move forward and try to force the hand of the contractor, because up to this point you

have nothing. I think the final answer to this whole circumstance is an overhaul of the town's sub-division ordinance, to begin with and to make it very clear that an LPD is a zoning overlay and that the sub-division ordinance supersedes that overlay, because that seems to be where the confusion lies. Oh, we're an LPD. This doesn't apply. It's on us to clarify these things in the future, but this will, at least, get us somewhere to get a beginning to a fix for this problem. I don't know that it will get it done as quickly as people would like it, but at least it gives the town some leverage at this point, I believe.

Vice Mayor Booros: I agree. Yes, Councilman Cote, the way we've seen some lots change hands over the last couple of years, with bolt lock transfers of properties; it could happen tomorrow, very easily.

Councilman Cote: One of the things that... I know roughly what the percentage of homes that are built; I don't know how many lots have been transferred.

Vice Mayor Booros: There are 50 lots left.

Councilman Cote: But we don't know how many of those are owned by the developer and how many of those may be owned by a builder or individual private members of the developer's company.

Vice Mayor Booros: I understand.

Mayor Jones: Now my question is here, under 188-23, final layer of blacktop and sidewalk "shall" be completed by the time 80% of the lots are completed. What is the timeline and what is the penalty for not doing so?

Seth Thompson: Again, the way it's set up, if you have a bond or some sort of guarantee in place, the town would be able to draw against that; or the town's also reserved it's right to use it's other methods of enforcement, which would be citations, the clean hands ordinance, that sort of thing.

Councilman Cote: Now, one of the remedies in the current ordinance, for not having a bond, is to withhold building permits. But we've been through... I stood out there and talked about the fact and it was discussed that the fact that the developer is not seeking the building permits.

Seth Thompson: Correct. That's right. And the way our clean hands ordinance works, and I think it would be difficult to do it any other method, the person that's delinquent in some fashion to the town, needs to be the applicant for you to deny them the application or whatever approval they're looking for.

Councilman Cote: So if there's no bond to go against, there's no penalty.

Vice Mayor Booros: We can lien the properties, that came up a year ago, didn't it? Did you not say \$68 to put a lien on a property?

Seth Thompson: Right, for recording a lien; but I'll have to go back and double-check, but I think in Section 188, you would first cite them for the violation.

Mayor Jones: Let's just go through that. That must be a written letter. Then, you're just going to take their bond?

Seth Thompson: If there's a bond.

Councilman Collier: If there is a bond to take.

Mayor Jones: Correct.

Councilman Cote: Excuse me, we're still proceeding Mr. Solicitor to compel this particular developer to get a bond; or some form of guarantee.

Seth Thompson: Right. I think it's important to keep these issues somewhat separate. I know that everybody's focusing on one element here, but the requirement of the bond is really a separate issue. We're not changing that; what we're doing is we're installing a

timeframe for when the final paving needs to occur. I know that those two issues are somewhat co-mingled in a particular instance, but this ordinance really deal with all of our sub-divisions, frankly.

Mayor Jones: What is the pleasure of Council?

Vice Mayor Booros: Madame Mayor, I have a motion on the floor already to accept this Ordinance, as written.

Councilman Collier: I'll second.

Mayor Jones: Is there any discussion?

Councilman Cote: I would like to... Somehow and I don't know how we know tonight, but I would like to know that the 80% sold or built doesn't disqualify any of the existing developments in town, from this Ordinance.

Seth Thompson: Well you could amend the effective date, to say that the Ordinance... basically removing that last sentence and the effective date; where it will no longer say the Ordinance shall not apply to sub-divisions and phases that have already crossed the 80% threshold.

Vice Mayor Booros: How about if I amend my motion to strike that line?

Seth Thompson: So then it's abundantly clear that it applies to everybody. You could have one home left and this applies to you.

Councilman Collier: And I will second the amended motion.

Mayor Jones: Any discussion? We just want to clarify that right now this is certainly a view to the future on this ordinance. It is not going to help those who do not have a bond at this time. We'll keep pursuing those measures. A roll call vote:

Vice Mayor Booros	Yes
Councilman Collier	Yes
Councilman Cote	Yes
Mayor Jones	Yes

Mayor Jones: Motion is carried.

17. New Business – Discussion and possible vote on the following items:

- a. Referral of subdivision application for Phase 4 of Heritage Creek to the Planning & Zoning Commission. The property is identified by Sussex County Tax Map & Parcel #2-35-20.00-56.00.

Mayor Jones: You have in front of you a referral of a sub-division application for Phase 4 of Heritage Creek to your Planning and Zoning Commission.

Seth Thompson: Madame Mayor, I don't know if you would like the applicant's to say anything. I think the way I read your Code, the intention behind this was to put the public on notice that the application had been received. In essence, it's kind of a first reading of some sort, because really all Council has to do is refer it to Planning and Zoning. But it's to put the public on notice that the application has been received and they can look for it to be on the Planning and Zoning Commission agenda, coming up.

Councilman Collier: Now, this still will have to come back to this body for final approval?

Seth Thompson: Correct.

Councilman Collier: I move that we refer this to Planning and Zoning for their recommendations.

Vice Mayor Booros: I'll second that motion.

Mayor Jones: Discussion? I have a question for Mr. Davis. The revised Master Plan that we received here at the back, was the revision only to this section where the front loaded homes were changed? Do you know, because it does say revised Master Plan and I wanted to know how that had changed. I do not have a copy of the original Master Plan.

Robin Davis: If I'm not mistaken, yes, but Mr. Coven might be able to answer that better, but if I'm wrong in saying yes.

Mike Coven, George, Miles and Buhr: Could you repeat that for me please?

Mayor Jones: This piece that I have which shows a revised Master Plan, was the only change where this section received their approval for the front loaded; went to 22', instead of 20' off the roadway?

Mike Coven: The Master Plan basically changed everything beyond Phase 2 in the project.

Mayor Jones: Right, but this revised Master Plan shows...

Mike Coven: That is the approved Master Plan in the Phase that we're asking you to refer is in accordance with that approved Master Plan.

Mayor Jones: That's right here?

Mike Coven: Yes, Ma'am. The layout that you see there is exactly the same as what was approved in the Master Plan.

Mayor Jones: Hearing no objections, do we hear a motion to refer this to Planning and Zoning? We have one. I apologize. Do we hear a second?

Councilman Collier: It's already been done.

Mayor Jones: I'm just looking at the map. I'm sorry I didn't hear you. All those in favor say aye. Any opposed? Motion is carried.

- b. Review/approval of a conditional use application for internet-based sales of historical and modern firearms in a portion of a home located at 426 Mainsail Lane (identified as Sussex County Tax Map & Parcel #2-35-14.00-184.00) – applicant Paul Garchinsky.

Mayor Jones: The next item on the agenda came before Planning and Zoning on March 19th. You had provided minutes from that meeting. I would like to personally say that Mr. Mazzeo, nice job doing your homework on this application.

Councilman Collier: I would like to echo that, as well. What are we looking for, a motion?

Seth Thompson: The applicant might want to come up and I recognize the Public Hearing, the way your Code lays out, occurs at the Planning and Zoning.

Councilman Collier: Is the applicant present?

Seth Thompson: He is.

Councilman Collier: Certainly, it's at the discretion of the Mayor, I just wondered where we're at on this.

Mayor Jones: This is really just a vote on Planning and Zoning's recommendation.

Seth Thompson: It is. I don't know if you want to let him present the application to you. It sounds like everybody's reviewed everything, anyway.

Mayor Jones: I think the applicant made that presentation at the Planning and Zoning Hearing. Is there any objection?

Councilman Collier: Unless he has something new to add to it, other than what's contained in these documents, I'm perfectly satisfied with what I've read and seen at this point, to go ahead and move forward with this.

Seth Thompson: Just so Council knows, based on Planning and Zoning's recommendation of a disapproval, it would need to be a four-fifths vote or higher. I recognize that we typically have seven people on Council.

Councilman Collier: So, does that mean we can act on it? Is that what you're telling me?

Seth Thompson: The applicant is here. Do you have anything to add to your application?

Paul Garchinsky: Sure.

Seth Thompson: Do you mind coming up to the microphone?

Paul Garchinsky: Thank you, Robin. In question is do you have anything in question?

Mayor Jones: Would you state your name for the record?

Paul Garchinsky: Paul Garchinsky.

Mayor Jones: Thank you.

Seth Thompson: Mr. Garchinsky, the Council has in front of it everything from the Planning and Zoning Commission. It sounds like they're in a position to vote on Planning and Zoning's recommendation. If you don't have anything to add, then that's fine, they'll go ahead and do that now.

Paul Garchinsky: As far as covenants, or...?

Seth Thompson: It's really up to you. It's your application.

Councilman Collier: Would there be any information contained in what we received that may not, in your opinion, be correct; because what I have are minutes from the meeting and they state the position of the Planning and Zoning Board and covenants was mentioned; do you have something that is different to what they uncovered in that meeting in regards to your covenants?

Paul Garchinsky: A few things, yeah. I mean, nothing is being enforced within Shipbuilder's itself. There are countless numbers of violations within there. Nothing is being upheld. One of the concerns was running and operating a business out of the home, as far as the old covenants and this is current information. There are seven that are running businesses out of their home right now, as we speak.

Councilman Collier: No matter how many wrongs there may be, it doesn't make... that doesn't make...

Vice Mayor Booros: Seven approved businesses? That have licenses from the town to run businesses?

Paul Garchinsky: Yes.

Councilman Collier: Well.

Vice Mayor Booros: Mr. Robin?

Robin Davis: I've not seen the list that the applicant says he has. I'm not aware... As far as I'm aware, I know there is one business that is... I don't even know if she's current this year, or not, that's out there. That's as far as I'm aware of. I do not know of any other.

Councilman Collier: The only incident that I'm aware of in that neighborhood, occurred next door to a friend of mine and they complained to the town and the town told them to pack their business up and put it where it belonged. So, to my knowledge, there is some form of enforcement there now. The question that I would have and I'm sure nobody can answer tonight is, they may be running businesses there, but do they have the proper conditional permits and usages or anything else like that? And that I don't have the answer to and I don't know. I'm getting the impression from Mr. Davis, who's been at this for awhile, but if they are out there running under a Conditional Use permit that was granted long before he came on the scene.

Vice Mayor Booros: Mr. Davis issues the license to those businesses every year, so if

they're there, you would know, wouldn't you?

Robin Davis: The licenses are actually signed off by the Code Enforcement Officer.

Councilman Collier: That's an interesting possibility. I don't have an answer to your statement, nor can I justify or deny that you're correct. For me, let me see if I understand the process and I read this and the way that I see it, you're acting as an internet sales; so essentially as I understand the Federal Firearms License, you can, I guess for lack of a better word, you can be the go-between guy if I want to buy a gun from somebody out-of-state, I can come to you and you can broker the deal, so to speak.

Paul Garchinsky: Yes and no.

Councilman Collier: There's a certain amount of background checks and everything else that I have to submit to, but they won't send it directly to me, they will send it to me via you?

Paul Garchinsky: That's correct; and me via them.

Councilman Collier: Exactly, so...

Paul Garchinsky: Essentially it's no different than listing something on E-Bay.

Councilman Collier: And I understand that, except that somebody has to be in possession of it at some point in time, at their place of business and that concerns me more so than anything else.

Paul Garchinsky: But that place of business will also house my personal collection.

Councilman Collier: I have no control over your personal collection.

Paul Garchinsky: Exactly and there will be no differences between me leaving the premises, as long as I abide to the Federal Regulations.

Councilman Collier: I also have to go on record as stating, while you state that there may be covenants there that are not being enforced; I'm not aware of them and it certainly didn't occur while I've sat on this Council, but I think the Council would be remiss to ignore them. We have no reason to enforce them. It's not our duty to enforce covenants, but at the same time I think we'd be in a bad way to ignore them. There's none in my neighborhood, but I wouldn't raise pigs in my neighborhood, just because it had a covenant, because I've got neighbors that would not like it.

Seth Thompson: And Councilman, I think it's important, the standard is really whether the location's appropriate when you're looking at public health, safety, morals and general welfare and the covenants seemingly could factor into whether that location is appropriate.

Councilman Collier: And I understand that perfectly well. Just wanted to give the gentleman an opportunity to speak and also express my feelings, to see if he had anything to state at this point in time that maybe I had not considered. I'm willing to listen at that point.

Paul Garchinsky: So the main concern is the fact that I would be selling firearms out of the house, or the covenants themselves?

Councilman Collier: You're in a residential neighborhood, and although Milton has no high crime areas, it is a neighborhood that has had it's individual problems from time to time and we have heard the Chief on many occasions talking about home invasions and stuff like that and I just think that if you're not going to hang a sign in the front of your house and I understand that, but it doesn't take long for the word to get around. I would hate to think that we would put you in jeopardy or your neighbors; you are in a townhome, am I correct?

Paul Garchinsky: Yes.

Councilman Collier: So what separates you from your neighbors is an 8" wall?

Paul Garchinsky: Approximately.

Councilman Collier: It concerns me. You're in close proximity to a school. I don't expect a fire fight to break out over your place, but I wouldn't want it to happen either.

Paul Garchinsky: I'm outside the limitations of the school.

Councilman Collier: I looked at the map and I guess it depends on how you interpret it. If I'm not mistaken it's 1,000' of the school is what the State law says; it depends on where you measure it from.

Vice Mayor Booros: The building or the property?

Councilman Collier: The property. It depends on where you measure it from and that's not verified.

Paul Garchinsky: Well for Planning and Zoning, I had to send 55 registered letters to all my neighbors and the school wasn't included on it.

Councilman Collier: That's because Planning and Zoning only requires 200'.

Paul Garchinsky: No.

Robin Davis: Yes, it's 200'.

Councilman Collier: It's 200'. I've been a thorn in Planning and Zoning's side from time to time, so I am aware of what that portion of it is, as well.

Paul Garchinsky: So that raises a question on why I spent \$340 on 55 registered letters, within 200'?

Councilman Collier: Exactly. You live in a very dense neighborhood and it's everybody within 200' of your property. I lived in a neighborhood where I was 204' away from the zoning thing and I didn't get a letter and I was probably the most vocal person about it; it's all in a matter of what you're required by law and I'm not going to argue the merits of that with you. I just wanted to give you the opportunity to answer my question specifically, because at this point in time, I have reached an ultimate decision for myself and I can't speak for the rest of the Council; but there were things that I wanted to hear from you personally and I thank you for your time.

Paul Garchinsky: One more thing. Are you aware that I don't need the backing to do what I'm asking to do?

Councilman Collier: I'm not sure I understand what you mean by backing.

Paul Garchinsky: The extensive amount of work and background checks and everything that has gone on through the ATF, leading up to this; I don't even need anything. You, as a citizen could sell a firearm out of your home and actually there's nothing that any of us could do about it.

Councilman Collier: And I understand that perfectly well. I imagine we'll see sometime in our near future, a lot of arguments on whether that should change or not. A private sale is one thing and I guess you have the right to do a private sale at this time. But that's not what you came to Planning and Zoning for, was to sell guns privately. You came to act as a firearm's dealer, as I understand it, so to speak, and that's a horse of a different color in my mind.

Paul Garchinsky: But I can go to the local gun store and buy one, bring it home, and list it up on the internet.

Councilman Collier: Yes, that's correct. You have that right to do them one at a time and there's not a whole lot I can do about it. That's not what you came here to ask us for, is what I'm trying to say to you, Sir.

Paul Garchinsky: So the difference would be...

Councilman Collier: I'm not going to argue the difference; that's not my place. My place is to review this application and hopefully render a decision in the best interests of the entire Town of Milton.

Paul Garchinsky: So then in the best interests of the entire Town of Milton, will all the covenants be enforced tomorrow and all my neighbors will have their trash cans behind their homes and I won't have boats and trailers and unregistered vehicles and prostitution and drug rings and everything else? Is that going to be done tomorrow?

Councilman Collier: What I can tell you, Sir, is I took this seat tonight and if all of these things exist in your neighborhood, as you say; then I'm certainly interested in seeing them come to change; I cannot affect that change overnight; but I can certainly tell you that I will endeavor myself to see that it does happen. There are avenues. You have a Code Enforcement Officer, you have complaints you bring them to him; you have police issues, we have a Police Department; you file complaints if you're not getting answers, you come back before this Council. You ask why? Then we can answer your questions, but I can't fix that overnight, nor will I promise you that I can. But I will tell you that if these things do exist, as you say, then I want to know why and I will ask the questions in the right place and the right departments in town and we will see what we can do to resolve these to your satisfaction.

Paul Garchinsky: So this answer based on you guys tonight, will be on what? On the covenants or the fact that there's firearms being sold?

Councilman Collier: That decision is yet to be made, so I'm cannot answer that question for you. I would imagine in an issue like this, that each and every one of us will have to express our reason for denial; would be what I imagine to happen.

Paul Garchinsky: I would hope so.

Councilman Collier: So until it goes to a vote, I can't answer your question, Sir. I cannot.

Mayor Jones: I would like to say that I would not want to be a part of perpetuating any further ignoring of the restrictive covenants in Shipbuilder's Village. If we are presently engaged in that, I'd be very interested in you sharing your information and I can tell you it will be looked into. Absolutely. If you have identified a problem that we have allowed to go on...

Paul Garchinsky: There's several.

Mayor Jones: But it is not a reason to continue to perpetuate it. It is a reason to fix what you have identified as an issue.

Paul Garchinsky: But as an example, there are satellite dishes, that's an antenna; so there are none of them allowed in, according to the covenants. So what do you do about that?

Seth Thompson: Let me chime in here. The restrictive covenants are contractual in nature. The town doesn't enforce those.

Paul Garchinsky: We don't pay an Homeowner's Association fee, so there's no...

Seth Thompson: Right, there's no Homeowner's Association under your covenants, so the individual owners, having looked at your covenants, the individual owners can enforce them against each other. So in other words...

Paul Garchinsky: No different then somebody just calling and saying, hey this guys got boats, trailers, a high fence, a drug ring, everything and I want it taken care of.

Seth Thompson: Right, you could file suit against that other owner in your neighborhood; that's how your covenants are set up; that the Homeowner's Association wouldn't do it, but the individual owners could sue each other to enforce their own covenants. The town can't enforce the covenants. My understanding from what I'm

hearing of Council, is that they're concerned that the covenants represent a residential neighborhood in nature and that allowing a Conditional Use to change that, effectively perpetuates a violation of the covenants. I think that's... When you're talking about prostitution and illegal business, obviously, those are town ordinance violations or State Code...

Paul Garchinsky: These are seven businesses that are legal. I have them highlighted if you want to take a look at them.

Seth Thompson: I'm just trying to draw a distinction between satellite dishes...

Paul Garchinsky: Yeah, I understand that, but they're home-based businesses and that's a home office and that's a live/work scenario.

Mayor Jones: And I would be very interested, if you are willing to share your research.

Paul Garchinsky: I am.

Councilman Collier: I have no further questions for the gentleman. Thank you for your time.

Paul Garchinsky: Thank you for your time.

Mayor Jones: Thank you. Pleasure of Council?

Councilman Collier: I'm kind of torn myself, because of the issues he's raised, I would like to see how much substance there is to them; but on the other hand I think that we would be remiss to drag this out for a longer period of time; so Mr. Thompson, this is the one thing I'm not familiar with. If we deny a zoning Conditional Use application today, how long is it before someone can reapply for the same thing, or is that denial forever?

Seth Thompson: I will check your Code, but I do not believe you have an express provision that governs when they could reapply. I would think they would want that to be able to show some sort of substantial change in the neighborhood that would warrant the reapplication.

Councilman Collier: And I understand that. I just don't want at this... I just want to know that for my own purposes, thank you.

Seth Thompson: I can tell you, that's what they do in the County level. That if somebody comes in with a reapplication, in other words, they're going to need to show that maybe other Conditional Uses have been granted on surrounding properties and that would somehow lead people to believe that maybe that would be a more appropriate use on that property.

Councilman Collier: Alright, thank you for that information, Sir. Based on what you've just told me and what I've been able to read and everything else, I'm going to move that we deny this application and certainly encourage the gentleman to prove to us that this Council as a body in the past, has allowed uses and made conditional applications, because at this point in time, we have nothing before us that states that any of those businesses, other than they have a legal license, which may be issued in error, but can be corrected. So I move that we deny the application now, but certainly would be willing to hear it again with greater evidence.

Councilman Cote: Second.

Mayor Jones: Discussion? Discussion would be what is greater evidence; that either the town is issuing licenses to restricted covenant neighborhoods or are you indicating that if we're doing it for others, we may do it for the applicant?

Councilman Collier: No, the specific idea that was given to me and my thoughts are that if this gentleman, through greater research comes back and says look, on this date the

Town of Milton granted this Conditional Use in the neighborhood, this Conditional Use, this Conditional Use, and they're all contrary to covenants, then it gives him a better leg to stand on, then what I have in front of me right now.

Mayor Jones: Okay, denied Conditional Use, not denied a business license?

Councilman Collier: Right, a business license can be issued in error and as often as we've changed Code Enforcement Officers and everything else in this town, I'm not so sure that they always understand what can and cannot be. Of course, if you've got a guy that was issued a license three Code Enforcement Officers ago and they continue to come back every year and the guy says we had a license last year, it must be okay; there's got to be certain checks and balances. This gentleman has raised a question to us that we need to look at this and there may possibly be people who were issued a license. We don't have to issue them another one.

Paul Garchinsky: Yeah, because were seven granted by accident?

Councilman Collier: The possibility exists, but they may not be by accident. I don't have that information and you didn't provide it for me tonight.

Vice Mayor Booros: And they may not have licenses. They may be operating a business; that doesn't mean Town Hall issued them a license and they pay for it every year.

Councilman Collier: Yes, these are things that... I'm encouraging you to go back and dig deeper and bring us greater evidence at this point in time, because the onus of your accusations it's up to you to prove them to me; it's not up to me to find out that you're right.

Paul Garchinsky: So having my Conditional Use application already filed and me already paying my application fee; how long does that give me if I need to prove further to you?

Councilman Collier: I don't have the answer to that question. I'll have to defer to the Solicitor, because I don't know what the limitations would be in that respect and I'm sorry that I don't have that answer.

Seth Thompson: In looking at your Code for procedures for Conditional Uses, it doesn't expressly provide for some standard under which somebody could reapply. Again, I can tell you, just kind of generally, it's typically if there's a substantial change in circumstances in the neighborhood; a substantial... It's somewhat akin to the standard that would apply to preventing somebody under an Homeowner's Association declaration, from being estopped; basically, if a neighborhood has changed to a degree that the Homeowner's Association let so many things go, that they could no longer enforce their covenants, it would somewhat be akin to that change in neighborhood that you would see typically for reconsidering a zoning.

Paul Garchinsky: So we're saying that Milton didn't initially take it on and say that it's their job to now enforce the covenants? The covenants just dissolved and it just stayed that way and nobody enforced it?

Seth Thompson: Again, your covenants didn't dissolve...

Councilman Collier: They don't dissolve.

Seth Thompson: And the town doesn't enforce your covenants.

Paul Garchinsky: Bad choice of wording, but yeah; not enforced.

Seth Thompson: Part of the problem is you guys don't have an Homeowner's Association that could take some sort of official stance. That may be helpful. Unfortunately that neighborhood doesn't have an Homeowner's Association to do that. So the problem is you face a scenario where, even if the Council were to grant the

Conditional Use application, your neighbor could turn around and sue you tomorrow to enforce the covenants and prevent you from opening your business.

Paul Garchinsky: Okay. Now pending further investigation, how you worded it, obviously it's a lengthy process to go through the ATF and do everything; and with getting the approvals of the Department of Transportation and the State Fire Marshall's Office and my Federal Firearm's background check and doing all of that, I have a 60-day period; the inspector was actually nice enough to give me an extension, which ends tomorrow, so reapplication has to happen and of course, there's going to be another fee. I'm just... It's kind of a roll the dice type scenario, but...

Seth Thompson: Unfortunately, every applicant faces that same scenario; they have to measure how strongly they feel about the application...

Paul Garchinsky: The application is approved, pending the meeting, of course... I didn't know if you knew that, or not. I think you guys did know that.

Seth Thompson: I was just speaking from the town's perspective, that every applicant coming to the town, there aren't any guarantees.

Paul Garchinsky: No, and I understand that. I definitely understand that. Something like this could be tabled for further discussion.

Seth Thompson: I don't think that's the case, based on the fact that the Public Hearing happens at the Planning and Zoning level for this kind of application. That's where the public's opportunity to provide input, so...

Paul Garchinsky: Was that homework that was talked about? Right before I stood up? What was that homework that was talked about, thanking Don?

Mayor Jones: Oh, for the way he conducted the meeting and the information that he provided for us...

Paul Garchinsky: During the meeting?

Mayor Jones: Yes, during his meeting. Yes.

Seth Thompson: The Council has just looked at the minutes from the meeting; they served as the recommendation.

Paul Garchinsky: Yeah, okay, okay. I just wasn't sure what that was.

Mayor Jones: So we have a motion on the table to deny the Conditional Use application, and it was seconded.

Seth Thompson: And if the Council, whenever you make your vote, if you can make your reasons clear, you can adopt somebody else's reasons; you can adopt the Planning and Zoning reasons; all that is fine, it just needs to be clear on the record as to why you vote the way you vote.

Mayor Jones: Let's have a roll call vote:

Councilman Booros

I sat in the Planning and Zoning Commission meeting and kept my mouth shut and listened to the neighbors speak and listened to the Planning and Zoning Commission and I think they did their job and I will go along with their recommendation to deny the Conditional Use.

Councilman Collier

I vote yes to deny and primarily because I am not in favor of instituting anything contrary to any covenants, in any neighborhoods. We find ourselves at a state where the newest parts of town

are people with covenants and if we start ignoring them, then what was the point of them having them. They bought into places with the idea that they wanted this, so I'm going to stay away from instituting things contrary.

Councilman Cote

I also vote to deny. I think the covenants are the covenants. While we don't enforce them, I don't think we get to break them and I think there are safety issues involved in that particular business and as the applicant just said, there's drug issues in his neighborhood, prostitution issues in his neighborhood, which doesn't add anything to the safety.

Mayor Jones

My vote would be to not approve this application based upon the restrictive covenants that were discovered during the applicant's hearing with Planning and Zoning.

Mayor Jones: That's a majority for you. Is that what you needed. Motion is carried.

18. Executive Session

a. None

19. Adjournment

Mayor Jones: Do I have a motion to adjourn?

Councilman Collier: So moved.

Councilman Cote: Second.

Mayor Jones: All in favor say aye. Opposed. Meeting adjourned at 9:20 p.m.